

REMARKS

Claims 1-4, 6, 7, 12, 15, 20, 21, 23, 25, 27, 31, 34-36, 38, and 47 are currently pending in the subject application and are presently under consideration. Claims 1 and 47 have been amended as shown at pages 2-6 of the Reply.

Applicants' representative thanks the Examiner for the courtesies extended during the telephonic interview conducted on January 29, 2007. The Examiner was contacted to clarify an aspect of applicants' claimed invention in relation to the cited references. In particular, the cited prior art was discussed with respect to teaching predicting times on alternate communication modalities when a user will be available. The examiner indicated that he believed the reference did not teach predicting an alternate modality and time when the message recipient would be available. As such, limitations along this line have been incorporated into independent claims 1 and 47.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-3, 12, 15, 20-21, 23, 25, 27, 31, 34-36, and 47 Under 35 U.S.C. §102(b)

Claims 1-3, 12, 15, 20-21, 23, 25, 27, 31, 34-36, and 47 stand rejected under 35 U.S.C. §102(b) as being anticipated by Barsness (US 2004/0117443). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Barsness does not teach each and every element of applicants' invention as recited in the subject claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added).

Applicants' claimed subject matter relates to system and method to facilitate meetings, collaboration, coordination and communications between message senders and receivers, wherein a prediction model is constructed from past presence, actions, and calendar of a user to

forecast the timing of the user's availability status. To this end, independent claim 1 (and similarly independent claim 47) recites *an e-mail service that generates dynamically customized automated responses to one or more messages based on a user's availability and a prediction model that predicts, based on the communication, collaboration and coordination, future availability and unavailability of the user, and an amount of time until the user returns to the communication, collaboration and coordination, wherein the future availability includes one or more times on one or more communication modalities when the user will be available, wherein the communication modalities are different from the original communication modality of the one or more messages*. Barsness is silent regarding such novel aspects of the claimed invention.

Barsness discloses an instant messaging system that examines a user's electronic calendar to determine if a user is unavailable and reports to a message sender the reason for the user's unavailability. The system may then queue the message for future forwarding to the user. However, the report back to the message sender does not include a prediction of a future time on an alternate modality of when the message recipient will be available. Therefore, Barsness fails to teach or suggest the future availability includes one or more times on one or more communication modalities when the user will be available, wherein the communication modalities are different from the original communication modality of the one or more messages.

In view of at least the foregoing discussion, applicants' representative respectfully submits that Barsness fails to teach or suggest all limitations of applicants' claimed subject matter as recited in independent claims 1 and 47 (and claims that respectfully depend there from), and thus fails to anticipate the subject claimed invention. Accordingly, this rejection should be withdrawn.

II. Rejection of Claim 38 Under 35 U.S.C. §102(b)

Claim 38 stands rejected under 35 U.S.C. §102(b) as being anticipated by Barsness (US 2004/0117443) in view of what is known in the art. It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Barsness in view of what is known in the art does not teach each and every element of applicants' invention as recited in the subject claims.

As discussed above, Barsness fails to teach *an e-mail service that generates dynamically customized automated responses to one or more messages based on a user's availability and a prediction model that predicts, based on the communication, collaboration and coordination, future availability and unavailability of the user, and an amount of time until the user returns to the communication, collaboration and coordination, wherein the future availability includes one or more times on one or more communication modalities when the user will be available, wherein the communication modalities are different from the original communication modality of the one or more messages* as recited in independent claim 1 from which claim 38 depends. Applicants' representative respectfully requests that the Examiner cite a reference showing prior public knowledge of this novel feature pursuant to MPEP 2144.03 if the rejection of the independent claims is maintained. Therefore, this rejection should be withdrawn.

III. Rejection of Claims 4, 6, and 7 Under 35 U.S.C. §103(a)

Claims 4, 6, and 7 stand rejected under 35 U.S.C. §103(a) as being anticipated by Barsness (US 2004/0117443) in view of Horvitz *et al.* ("Attention-Sensitive Alerting"). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Barsness in view of Horvitz *et al.* does not teach each and every element of applicants' invention as recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As noted *supra*, Barsness fails to teach *an e-mail service that generates dynamically*

customized automated responses to one or more messages based on a user's availability and a prediction model that predicts, based on the communication, collaboration and coordination, future availability and unavailability of the user, and an amount of time until the user returns to the communication, collaboration and coordination, wherein the future availability includes one or more times on one or more communication modalities when the user will be available, wherein the communication modalities are different from the original communication modality of the one or more messages as recited in independent claim 1 from which claims 4, 6, and 7 depends. Horvitz et al fails to make up for the above-identified deficiencies of Barsness with respect to independent claim 1. The cited reference discloses an alerting management system that determines if a user should be alerted to an incoming communication based upon an inference of the cost of disrupting the user. However, Horvitz *et al.* is silent regarding generating dynamically customized automated responses to a message that includes one or more times on one or more alternate communication modalities when the user will be available.

Therefore, applicants' representative respectfully submits that Barsness and Horvitz *et al.* fail to teach or suggest all limitations of applicants' claimed subject matter as recited in independent claim 1 (and claims that respectfully depend there from), and thus fails to make obvious the subject claimed invention. Accordingly, this rejection should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063[MSFTP213US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROCY & CALVIN, LLP

/Himanshu S. Amin/

Himanshu S. Amin

Reg. No. 40,894

AMIN, TUROCY & CALVIN, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731